

EXHIBIT 3

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Adv. Case No. 10-04377-smb

4 Adv. Case No. 10-04658-smb

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6 IRVING H. PICARD, TRUSTEE FOR THE LIQUIDATION OF BERNARD L.

7 MADOFF INVESTMENT SECURITIES LLC,

8 Plaintiff,

9 v.

10 NELSON et al.,

11 Defendants.

12 - - - - - x

13
14 United States Bankruptcy Court

15 One Bowling Green

16 New York, NY 10004

17
18 May 8, 2019

19 10:22 AM

20
21 B E F O R E :

22 HON STUART M. BERNSTEIN

23 U.S. BANKRUPTCY JUDGE

24
25 ECRO: NAROTAM RAI

1 of these \$4 billion of cash dividends were deposited into
2 any other bank account?

3 A No. I scoured every other bank account record and
4 every other document. I wanted to make sure that I was
5 certain.

6 Q So, to wrap up this issue, please summarize your
7 conclusions concerning the source of funds flowing out of
8 the investment advisory business to customers. Where was
9 that money coming from?

10 A Customer money. Just other customers' money.

11 Q Did your conclusion that the BLMIS investment advisory
12 business did not have a connected trading platform have
13 anything to do with your conclusion that the investment
14 advisory business was being operated as a Ponzi scheme?

15 A Absolutely.

16 Q Why?

17 A Because without the ability to actually connect to the
18 market and trade and no evidence of those trades ever
19 occurring, coupled with what I just testified about, that
20 the only money I saw was customer money in and customer
21 money out, no accretion to that 703 account from any sort of
22 trading profit dividends -- that's the classic example of a
23 Ponzi. There's nothing going on. You're taking money from
24 people, you're promising that you're going to do something
25 with it, and then you pay them back as if you're fulfilling

1 your promise.

2 Q So, in addition to the not-connected trading platform,
3 did your conclusion that the customer deposits were used to
4 pay customer redemptions have any bearing on your conclusion
5 that the investment advisory business was being operated as
6 a Ponzi scheme?

7 A It did. As I just said, the lack of other funds from
8 trading profits, from dividends, from real results of actual
9 trading -- the lack of that played into the conclusion that
10 this was simply a Ponzi. Just taking money in and paying it
11 back.

12 Q Okay. So, we talked about the trading platform.

13 A Yes.

14 Q We talked about the money.

15 A Correct.

16 Q Now I want to talk about the investment strategy that
17 BLMIS was marketing to its customers, okay?

18 A Okay.

19 Q What was that?

20 A During the time period for this case?

21 Q Yes.

22 A It was called a split strike conversion strategy, Your
23 Honor, and it's a strategy, as I said during my
24 qualification phase, that is a real trading strategy. And
25 the way it was purportedly set up by BLMIS was to buy some

1 the date. So, why don't we focus on the middle where it
2 says October 31, 2005?

3 So, what I did here, Your Honor, was the left bar
4 that's been highlighted on the screen in dark blue, I went
5 and found records at the Prop Trading business, trading
6 records showing that 53,770 shares of stock in total, on
7 October 31, 2005, were supposedly held by the Prop Trading
8 business.

9 I then obtained records from the Debtors for that
10 same date, October 31, 2005, and found evidence to the exact
11 share number, that 353,770 shares. DTC had records that
12 showed stock for BLMIS was custodied at DTC.

13 It's important, Your Honor, to understand that at
14 DTC, BLMIS had one account. It was called the 646 account,
15 and that was their participant number when they agreed to
16 participate with DTC. Recall, as a broker dealer, when
17 you're clearing equities, you have to have a DTC account.
18 And so, the Prop Trading business did have an account, 646.

19 So, with that one account, I obtained the records.
20 We also -- I asked the Trustee when these records were
21 subpoenaed from DTC to ask the DTC for any other potential
22 Madoff accounts, and the DTC responded this was the account.
23 This was the only records they had. There was only one
24 account, the 646.

25 So, in the middle -- back to the middle, Your